

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP
(954) 797-1101

SUBJECT: Quasi Judicial Hearing: Variance

V 2-3-01 Neuhaus/Powers, 4271 SW 54 Avenue/Generally located on the west side of SW 54 Avenue 550 feet south of SW 42 Street.

TITLE OF AGENDA ITEM:

V 2-3-01, Neuhaus/Powers, 4271 SW 54 Avenue (R-3)

REPORT IN BRIEF:

The applicant is proposing to construct a 2,044 square foot single family home that is approximately 45 feet by 45 feet, and a 1,200 square foot garage located at the rear of the 0.525 acre subject site which is 75 feet wide by 305 feet long. In order to have a driveway that is ten (10) foot wide set back five (5) feet from the property line and the house respectively as required, a reduction in the side set back along the northern portion of the subject site from fifteen (15) to ten (10) feet is requested.

PREVIOUS ACTIONS:

Town Council tabled this item at the April 18, 2001 meeting to the May 2, 2001 meeting at the request of staff.

CONCURRENCES:

The Planning and Zoning Board recommended approval of the request at its 4/25/01 meeting. Vice-Chair Stahl made a motion, seconded by Mr. Waitkus, approval. (Motion carried 5-0)

FISCAL IMPACT: None

RECOMMENDATION(S): Motion to approve

Attachment(s): Justification letter, Conceptual site plan, Land Use Map, Subject Site Map, Aerial

Application #: V 2-3-01

Revisions:

Exhibit "A"

Original Report Date: 4/27/01

**TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation**

APPLICANT INFORMATION

Owner:

Name: Patti Powers
Address: 771 N Pine Island Road #105
City: Plantation, FL 33324
Phone: (954)424-9554

Agent:

Name: Doug Neuhaus
Address: 771 N Pine Island Road #105
City: Plantation, FL 33324
Phone: (954)424-9554

BACKGROUND INFORMATION

Date of Notification: April 4, 2001 **Number of Notifications:** 117

Application History: Staff requested the item be tabled from the April 11, 2001 Planning and Zoning Board meeting to the April 25, 2001 meeting, and from the April 18, 2001 Town Council meeting to the May 2, 2001 meeting.

Application Request: One (1) variance **FROM:** Section 12-81 of the Land Development Code which requires fifteen (15) foot side yard setbacks in R-3, Low Density Dwelling Districts **TO:** reduce the sideyard set back along the northern portion of the subject site to ten (10) feet.

Address/Location: 4271 SW 54 Avenue/Generally located on the west side of SW 54 Avenue 550 feet south of SW 42 Street.

Future Land Use Plan Designation: Regional Activity Center

Zoning: R-3, Low Density Dwelling District

Existing Use: Vacant.

Proposed Use: One (1) single family dwelling.

Parcel Size: 0.525 acres (22,875 square feet)

North: **Surrounding Uses:**
Single Family Residential

Surrounding Land
Use Plan Designation:
Regional Activity Center

South:	Single Family Residential	Regional Activity Center
East:	Single Family Residential	Regional Activity Center
West:	Single Family Residential	Regional Activity Center

Surrounding Zoning:

North:	R-3, Low Density Dwelling District
South:	R-3, Low Density Dwelling District
East:	R-3, Low Density Dwelling District
West:	ENSZD, Eastside Neighborhood Special Zoning District

ZONING HISTORY

Related Zoning History: This parcel is inside the Regional Activity Center Future Land Use Plan designation that was adopted by Town Council in 1998.

Previous Request on same property: None.

Summary of Significant Development Review Agency Comments

The subject site falls within the Town's Community Redevelopment area and the agency has no objections to this request.

APPLICATION DETAILS

The applicant is proposing to construct a 2,044 square foot single family home that is approximately 45 feet by 45 feet, and a 1,200 square foot garage located at the rear of the 0.525 acre subject site which is 75 feet wide by 305 feet long. In order to have a driveway that is ten (10) foot wide set back five (5) feet from the property line and the house respectively as required, a reduction in the side set back along the northern portion of the subject site from fifteen (15) to ten (10) feet is requested.

Applicable Codes and Ordinances

1. Section 12-81 of the Land Development Code requires fifteen (15) foot side yard setbacks in R-3, Low Density Dwelling Districts.
2. Section 20-110.5 of the "Old" Land Development Code requires seven and one-half (7.5) foot side yard setbacks in R-3, Low Density Dwelling Districts. *This Code reference is pertinent to this request as the none of the homes (available records indicate that none of the homes in this subdivision have 15 foot side setbacks) in this subdivision were developed under these standards.*
3. Section 12-38 of the Land Development Code, Nonconforming lots, states a principal building and customary accessory building may be erected on a single parcel of land.
4. Section 12-38(4) of the Land Development Code states that a single lot shall meet the minimum property development regulations, except minimum lot size requirements, that are generally applicable in the district, except as may be provided through the granting of a variance.
5. Section 12-203(C) of the Land Development Code, Driveways, states the closest point

of any residential driveway shall be located a minimum of five (5) feet from any side and/or rear property line.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 8. This Planning Area is the heart of Davie and is the most diverse, characterized by older, small-scale commercial development, older single-family residential neighborhoods, and newer, large-scale multi-family residential developments that serve the rapidly growing South Florida Education Center (SFEC). It is bounded on the north by Nova Drive, south by Orange Drive, east by Florida's Turnpike, and west by University Drive. The planning area encompasses the downtown Davie Business District, where western theme architecture is required, the Davie Town Hall and Rodeo Arena, two large mobile home communities, and industrial land.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 99.

Applicable Goals, Objectives & Policies: None.

Staff Analysis

The intent of the fifteen (15) foot side set backs required by the Land Development Code is for the consistent placement of buildings within the R-3, Low Density Dwelling District, and to provide sufficient separation of buildings to reflect a low-density neighborhood character. The subject site has special circumstances, as it is one of only two undeveloped legal nonconforming lots that fall within the Lauderdale Little Ranches Subdivision, which was developed under the R-3 (Old Code) standards. The R-3 (Old Code) standards require seven and one-half (7.5) feet side setbacks, and according to available records all but the two vacant lots in this subdivision have been developed pursuant to these standards. The requested variance will allow for development of the subject site with a driveway to the rear of the property, and a setback along the northern portion of the site that is still greater than what the majority of the lots in the neighborhood have been developed with.

The alternative approach to developing the site would be a reduction in width of the house. Staff finds that this alternative is an unreasonable approach to developing the site given the narrowness of the lot at 75 feet in width, and the established house dimensions and setbacks in the neighborhood. Therefore, staff finds this variance request reasonable and in harmony with the established development conditions in the neighborhood.

Findings of Fact

Variances:

Section 12-309(B)(1):

The following findings of facts apply to the variance request.

(a) There is a special circumstance or condition applying to the land or building for which the variance is sought, which circumstance or condition is peculiar to such land or building and does apply generally to land or building in the same district, and that said circumstance or condition is such that the strict application of the provisions of this chapter would deprive the application of the reasonable use of such land or building for which the variance is sought. The alleged hardship is not self-created by any person

having an interest in the property.

This lot is unique as it is a legal non-conforming lot, it is one of two lots in the neighborhood that have not been developed, and all the other lots in the neighborhood have been developed with the R-3 (Old Code) standards.. Strict application of the Code will not permit the owner to have access to the rear of the property.

(b) The granting of the variance is necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

Denying this variance request will result in the applicant not be able to use a significant portion of the property.

(c) Granting of the requested variance is in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The requested variance will allow for a home to be built that is in line with the established character of the neighborhood. The intent of the Code is to allow a property owner to enjoy their property without undue limitations; denial of a variance which will allow the owner to utilize the rear of the property goes against the intent of the Code.

Staff Recommendation

Recommendation: Based upon the above and the finding of facts in the positive, staff recommends **approval**, of petition V 2-3-01.

Planning & Zoning Board Recommendation

The Planning and Zoning Board recommended approval of the request at its 4/25/01 meeting. Vice-Chair Stahl made a motion, seconded by Mr. Waitkus, approval. (Motion carried 5-0)

Exhibits

1. Justification letter, 2. Conceptual site plan, 3. Land Use Map, 4. Subject Site Map, 5. Aerial

Prepared by: _____

Reviewed by: _____

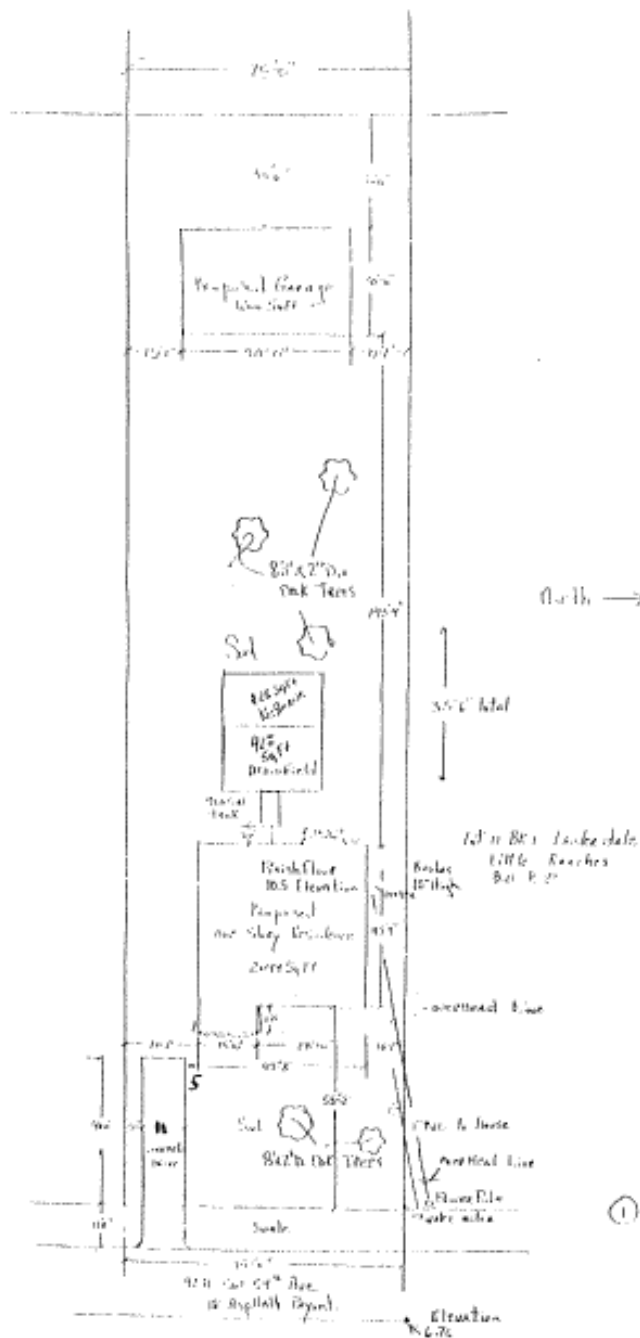
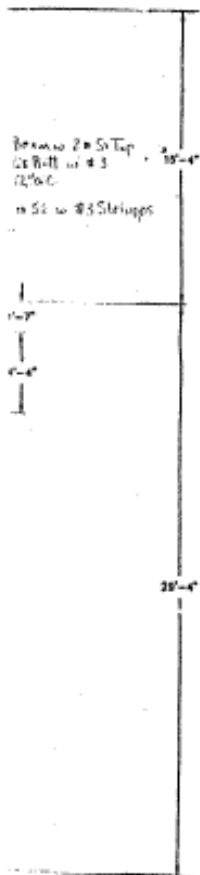
We are seeking to reduce the side setback from 15' to 10'. This small encroachment will allow for a much safer driveway down the south side of the house to access the larger portion of the property in the rear. In order to follow prevailing standards for a driveway we need 5' from the property line to the driveway and 5' from the driveway to the house. With a minimum 10' driveway, we need a total of 20' from the property line to the house.

The property was platted with 75' of frontage onto SW 54th Ave. even though the R-3 zoning requires a minimum of 100' frontage. The home would fit with 15' setbacks on both side yards, but with a strict application of the code, the driveway access to the back of the property would be crowded and marginally unsafe.

On the same street at least eight other properties do not meet both side yard setbacks and at least one doesn't meet either setback, specifically Lots 13, 15, 16 of Block 1, Lauderdale Little Ranches, Lots 10, 11, 12, 16, 17 of Block 2, Lauderdale Little Ranches.

We feel that with this variance this property will be in harmony with the Town Code, and would not be a detriment to the neighborhood. In fact with the numerous exceptions to the code in this small area, it may be more harmonious after the variance. Without this variance, the majority of the property would be unusable. The garage which we have planned for the rear of the property is basically for storing equipment and materials, as I am a contractor by profession. It is my intention to keep all materials inside the garage so as not to create an eyesore for the neighbors.

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Journal of Business Ethics 11: 103–112, 1992.
© 1992 Kluwer Academic Publishers. Printed in the Netherlands.

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Journal of Management Education 30(6)

• Elevation

Site Plan

① of ⑥ Site Plan

Foundation

Children of Two Worlds

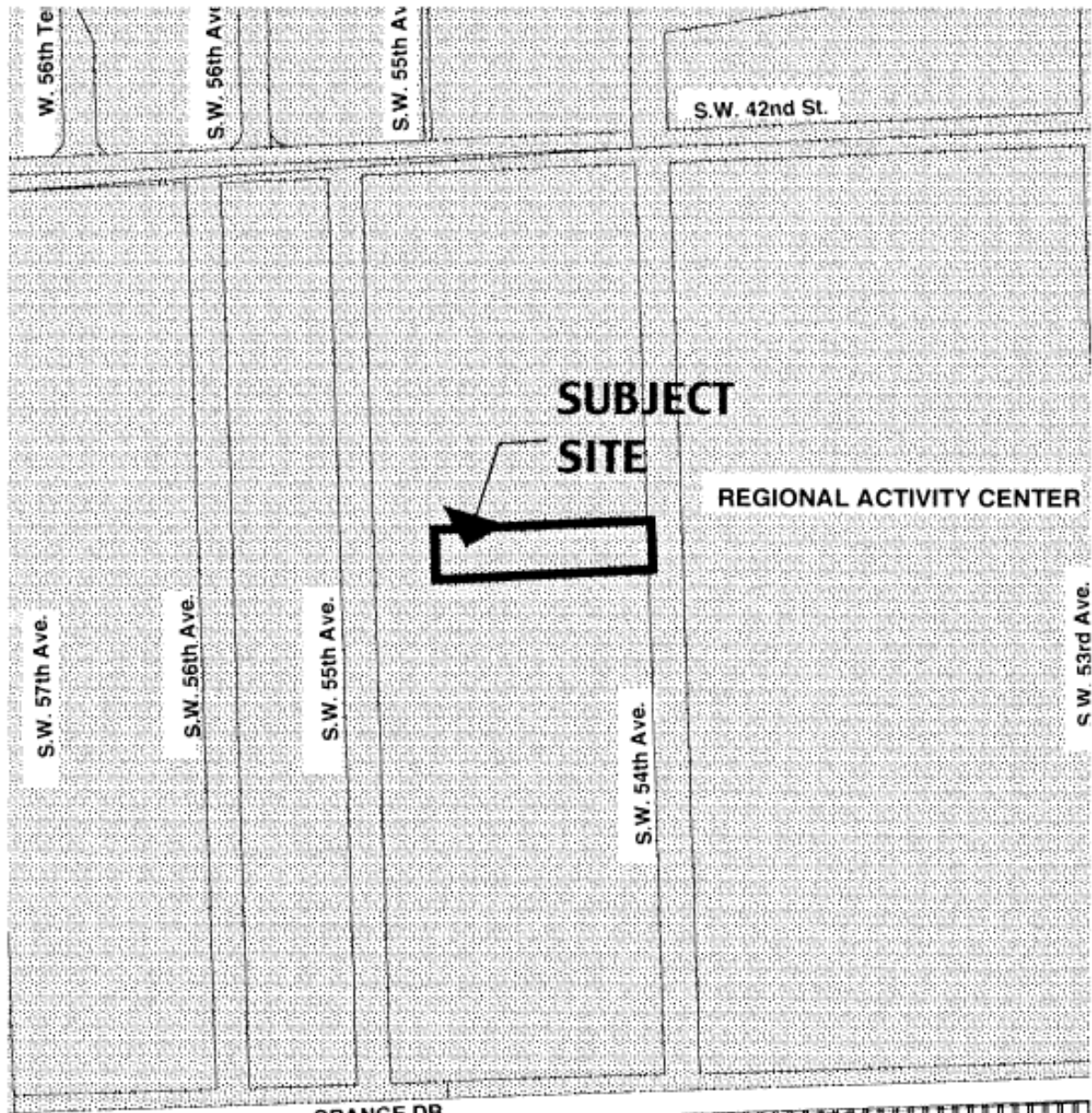
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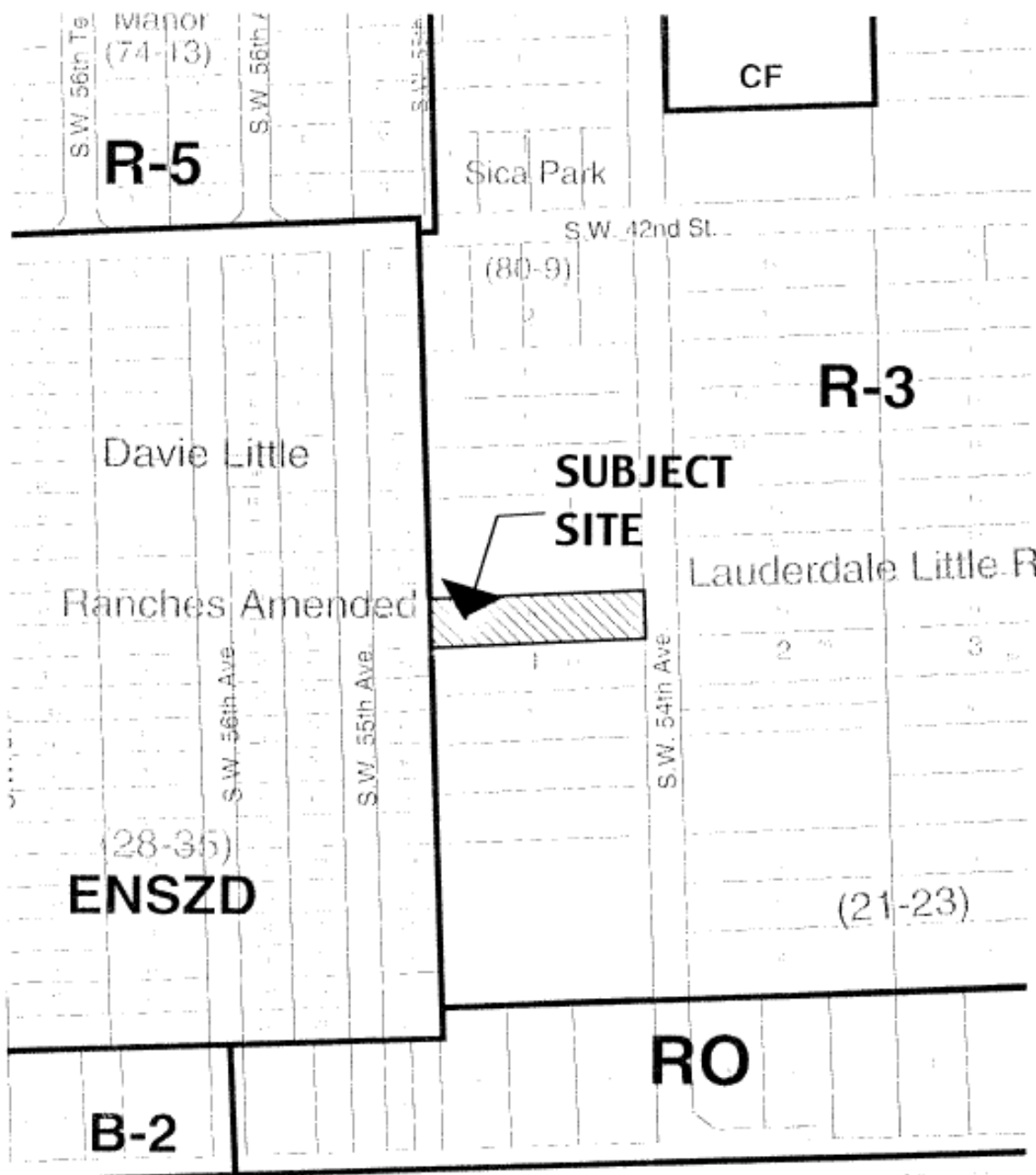
4271 SW 54th Ave.

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 J. Edgar Hoover



PETITION NUMBER	N
V-7-361	4
Subject Site Area	
Future Land Use Plan	
PREPARED 3/7/01	Scale: 1" = 1/2 mi.
BY THE PLANNING & ZONING DIVISION	



PETITION NUMBER
V 2-3-01

Subject Site Area Zoning Map **4**

PREPARED 3/2/01
BY THE PLANNING & ZONING DIVISION

N

